

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL McCULLAR,

Defendant.

4:19CR3017

SENTENCING STATEMENT

Comes now the Plaintiff, United States of America, by and through the undersigned Assistant United States Attorney and in response to the sentencing statement set forth by the defendant, states as follows:

The plea agreement in this matter calls for a minimum sentence of 360 months with the maximum sentence to be determined by the Court. (Filing 23). The United States requests this Court to approve the 11(c)(1)(C) agreement submitted by the parties. However, the government does disagree with the Probation Office and the defense as to the maximum length of imprisonment for the defendant.

There are no sentencing issues or objections that have been filed with respect to the Presentence Report. The Presentence Report describes the heinous nature of the defendant's criminal acts in detail. The government will not specifically address those acts in this statement. The government contends that the defendant's criminal conduct, both with respect to Count I and Count IV of the Indictment, justify a sentence at the high end of the sentencing guideline range. As the Presentence Report has indicated, the sentencing guideline range for the defendant's criminal conduct is 600 months in prison. (PSR, ¶ 116). The United States respectfully submits that the guideline recommendation should be followed by this Court. The defendant should

receive 360 months on Count I and 240 months on Count IV, to run consecutive to the sentence in Count I. The government believes that this is the appropriate sentence given the defendant's criminal conduct. This sentence is particular sufficient in lieu of the Court's prior sentencings in *United States v. Mathew Goad*, 4:19CR3053 and *United States v. Randall Hughes*, 4:18CR3004. The United States respectfully submits that recommendation of Probation for a concurrent sentence with respect to Count IV insufficiently takes into account the defendant's criminal conduct under the sentencing guidelines and with respect to Title 18, United States Code, Section 3553. The defendant should receive a consecutive sentence for his conduct relating to the possession of child pornography. Due to the defendant's vast collection of child pornography, a maximum sentence is appropriate.

With respect to supervised release, the United States believes that the defendant's criminal conduct warrants a lifetime term of supervised release. A review of the Presentence Report describes conduct that requires a maximum level of supervision for an extensive period. The ten years prescribed by the Probation Office is insufficient to deal with the nature of the defendant's criminal conduct.

With respect to restitution, the United States believes that the Probation Office has not considered one additional victim in this case. In reviewing the chart provided by the Probation Office in the Presentence Report, a request for restitution from "Susie" (a/k/a the "Lighthouse 4" series), was omitted. "Susie" has requested \$15,000.00 in restitution. The United States believes that with the inclusion of this \$15,000.00, the amount of restitution should be \$154,136.00. The United States is requesting that amount. The United States also requests that the Court assess the \$50,000.00 assessment under the Amy, Vicky and Andy Child Pornography Victim Assistance

Act of 2018 and \$10,000.00 (\$5,000 for each count) pursuant to the Justice for Victims of Trafficking Act.

An interested person to the victim in this case has provided a victim impact statement to the Court. The United States requests that the impact statement be part of the Presentence Report. In addition, the interested party may wish to provide a statement at sentencing. That decision has yet to be made. The United States will inform the Court of the interested person's request prior to sentencing.

### **CONCLUSION**

For the reasons stated herein, the United States respectfully requests this Court to impose a sentence of 600 months imprisonment, lifetime supervised release and restitution as outlined in this statement.

UNITED STATES OF AMERICA, Plaintiff

JOSEPH P. KELLY  
United States Attorney  
District of Nebraska

By: s/ Steven A. Russell  
STEVEN A. RUSSELL, #16925  
Assistant U.S. Attorney  
487 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508-3865  
Tel: (402) 437-5241  
Fax: (402) 437-5390  
E-mail: [steve.russell@usdoj.gov](mailto:steve.russell@usdoj.gov)

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2020, I electronically filed the foregoing with the Clerk of the Court of the United States District Court for the District of Nebraska by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

And I hereby certify that I have caused this document to be electronically mailed to the following non CM/ECF participants: Laura L. Baumann, Probation Officer

s/ Steven A. Russell  
STEVEN A. RUSSELL #16925